

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v-

No. 16-CR-826-LTS

MARK FERNANDEZ,

Defendant.

-----x

ORDER

The Court has received Defendant Mark Fernandez's pro se motion for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(1)(A). (Docket Entry No. 468.) Section 3582(c)(1)(A) provides, in relevant part, that:

the court . . . upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment . . . after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that . . . extraordinary and compelling reasons warrant such a reduction . . . and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

18 U.S.C.A. § 3582(c)(1)(A) (Westlaw through P.L. 116-140). Mr. Fernandez's motion does not indicate that he has made any application to the Warden of his facility. Thus, it appears that he has not exhausted all administrative rights to appeal a failure of the Bureau of Prisons ("BOP") to bring a motion on his behalf, nor have 30 days lapsed since the receipt by the Warden of the facility at which he is confined of a compassionate release request by Mr. Fernandez. Therefore,

Defendant's motion is denied without prejudice. Docket Entry No. 468 is resolved. Chambers will mail a copy of this order to Mr. Fernandez.

SO ORDERED.

Dated: New York, New York
June 1, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge

Copy mailed to:

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